IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-1765-2023 (O&M)
Reserved on: 02.08.2023
Pronounced on: 19.10.2023

Harsatinder Pal Singh @ Gikku

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Vikram Chaudhri, Sr. Advocate with
Mr. Parvez Chaudhary, Advocate,
Ms. Hargun Sandhu, Advocate and
Mr. Kunal Sharma, Advocate
for the petitioner(s).

Mr. Aman Pal, Addl.A.G., Punjab.

Ms. Reeta Kohli, Sr. Advocate with
Ms. Vandana Kohli, Advocate
for the complainant.

Mr. Gopal Singh Nahel, Advocate for PACL.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
79	16.07.2020	City Zira, District Ferozepur	406, 420, 467, 468, 471, 120-B IPC

The present petition was being listed along with so many other connected matters and the same were being adjourned on one pretext or the other and as such, this Court decided to keep on hearing and reserving the every petition whenever it was possible. As such, although these petitions were heard on different dates, but the judgments therein are being pronounced simultaneously.

2. The petitioner incarcerated in the FIR captioned above has come up before this Court under Section 439 CrPC seeking bail.

3. In paragraph 10 of the bail petition, the accused declares that he has no criminal antecedents.

4. The crime relates to a massive scam involving the general public's thousands of crores of rupees by two companies, i.e., PACL and PFG Limited. The *modus operandi* of some of the people controlling the PACL and PFG Limited was to persuade innocent investors to invest in the company's plots and lands with an assurance that their money would be doubled quickly. The companies used the services of various unethical agents, who allured and convinced the people about the validity and genuineness of the claims made by PACL and PFG Limited. In the inquiry conducted by CBI, they got sufficient evidence that PACL and PFG Limited were sister concerns and routing money by laundering. The primary allegations are that some Directors, some employees, some agents and some brokers of PACL, and some other persons, in connivance with a large number of Revenue officials, including the petitioner, who was well aware of the fact that the properties of the PACL were being disposed of at lower circle rates fixed by corrupt Revenue officials, which fact of undervaluation was well within the knowledge of senior Government officers at the highest level.

5. When this Ponzi fraud & scam came to the people's glare, initially, the CBI registered FIR No. RC.BD-1/2014/E/004/BS&FC/New Delhi dated 19.02.2014 under Sections 409, 411, 420, 467, 468, 471, 120-B IP. In February 2014, the CBI inspected the offices of PACL and confiscated lists of its other assets and subsidiary companies throughout the country. Considering the mammoth volume of the scam, an inquiry was also initiated by the Enforcement Directorate as well as SEBI, and after that, the Punjab Police. As per the reply/affidavit dated 3.3.2021 filed in connected petition, people were filing complaints, and based on one such complaint by one Pradeep Kumar, the FIR captioned above was registered by Punjab Police. The CBI had taken possession of around twenty-nine thousand sale deeds pertaining to this company and the CBI also communicated about the crime to the Government of Punjab. Based on their communication, the Punjab Government vide memo. No.24/55/15-S.T.1/9089-08, Chandigarh dated 30.06.2015, directed all the revenue officials that the company's properties shall only be sold with the prior permission of the concerned Deputy Commissioner.

6. The allegations are that some Directors, some employees, some agents and some brokers of PACL and some other persons, in connivance with large number of Revenue officials, who were well aware of the properties of the PACL, disposed of the properties in a fraudulent and dishonest manner at lower circle rates fixed by corrupt

Revenue officials. This fact of under valuation was well within the knowledge of senior Government officers at the highest level.

7. In the meantime, the matter went to the Hon'ble Supreme Court, which constituted a committee headed by former CJI Justice R.M. Lodha (Retd.) for reimbursement of the money belonging to the investors of PACL by disposing of its properties and its associate companies. The order was passed in Civil Appeal No.13301/2015 on 2.2.2016. Subsequently, vide order dated 25.7.2016, the Hon'ble Supreme Court stayed the sale of properties of PACL and PFG Limited. The Lodha Committee issued advisories to the people at large not to deal with the properties of PACL within or outside India.

8. The accused were influential people threatening the complainant and using unfair means to dispose of its properties. In the inquiry mentioned above, the investigator got substantive evidence that despite orders passed by the Hon'ble Supreme Court, the PACL and its subsidiary companies illegally and fraudulently, in violation of the orders of the Hon'ble Supreme Court, disposed of some properties and, based on such report, the present FIR no.79 dated 16.7.2020, captioned above, was registered.

9. After registration of the FIR, a Special Investigation Team was constituted, headed by the Superintendent of Police, and DySP and other officials were its members. In the enquiry, it transpired that PACL had purchased around 715 acres of land in its name or the names of its associated companies and in the names of some other individuals.

10. As per the status report dated 7.7.2023 filed by way of affidavit of DySP Vigilance Bureau, SAS Nagar, petitioner is the son-in-law of Nirmal Singh Bhangoo, the Director of PGF Limited. On 6.7.2021, Barinder Kaur, the petitioner's wife, was arrested from the airport when she was trying to flee to the USA via France. Based on this, bail was opposed by the State, submitting that the petitioner could easily run away and flee from justice. As per paragraph 22 of the status report, the petitioner was arrested on 28.5.2021. The investigation found many properties in the name of the petitioner's wife; the details of seventeen such properties are given in paragraph 22.

11. As per paragraph no.23, it has been mentioned that the petitioner's wife also purchased properties in Australia and Singapore, either in her name or in the name of her relatives. The investigation also revealed that the petitioner, his wife, Barinder Kaur, and father-in-law, Nirmal Singh Bhangoo, acted in a pack to cheat innocent

people and siphon off their money. During interrogation, the prosecution recovered a massive number of documents, which are detailed in paragraph no.28 of the status report.

12. In addition to the *benami* properties in the name of his wife and relatives, the petitioner was a member of the Governing Body of Golden Public Senior Secondary School situated at Chandigarh-Ambala Highway in Village Jharmari, Tehsil Derabassi, District SAS Nagar, having land of 16 Acres 3 Biswa. Said school was purchased by Harvindra Industries (owned by Nirmal Singh Bhangoo's son Harvinder Singh Bhangoo) from Golden Forest India Pvt. in an auction. The investigation further revealed that this property was also purchased from the funds of the people's money, and the petitioner and his family members were using the same for their personal use. It is further revealed that the petitioner and his family members entered into various sale deeds in violation of the judgment of the Supreme Court.

13. The present petition was filed on 10.01.2023, which was listed for the first time on 19.1.2023. On 13.4.2023, this Court heard the matter at length and reserved the order along with other connected cases. However, while dictating the order, this Court was of the opinion that a thorough affidavit was required, but given the ensuing summer vacations, this Court granted interim bail to the petitioner because the petitioner had already been incarcerated for around two years and bail was with certain conditions as mentioned in the order dated 18.05.2023, and the said order continues till date. After that, a fresh status report/reply dated 7.7.2023 was filed by way of an affidavit of DySP, Vigilance Bureau, SAS Nagar.

14. Petitioner's counsel submitted that during the pendency of the bail, the petitioner did not flee or violate the terms and conditions of the order. However, the response of the State on this aspect is that this Court had granted interim bail only, and it was not on merits but only due to the pendency of the petition. As such, this is not a ground to make the interim order absolute, and instead, the interim bail must be recalled, given the massive amount of money involved.

15. The petitioner's next contention is that parallel inquiries are pending with CBI, in which CBI had already filed the chargesheet in Delhi Court, and the present petition overlaps with the same. However, this argument is without any merit because the allegations in the present FIR are on a specific complaint for selling the properties of the company, taking advantage of the lesser circle rates fixed by the corrupt Revenue officials, who deliberately did so that the money is invested in under-valued properties and the massive amount of cash is siphoned off in such deals. The petitioner's next

contention is that the Lodha Committee held the present transactions as legal. This argument is baseless because there was a specific direction of the Lodha Committee itself not to sell these properties.

16. Given above, the petitioner is not entitled to bail on the case's merits. However, it remains undisputed that the petitioner remained in custody in the present trial for two years. It is also undisputed that during the pendency of the interim bail, the petitioner did not violate any terms and conditions of the bail order. The petitioner is stated to have complied with all the terms and conditions of the interim order and undertakes to continue to do so in letter and spirit. Thus, considering the pre-trial custody of the petitioner of two years, I am of the considered opinion that further pre-trial incarceration of the petitioner is not required, and thus, the interim order dated 18.5.2023 is made absolute, subject to the condition that the petitioner shall not violate any terms and conditions mentioned in the said order and case, the petitioner does so, the State shall file an application for cancellation of bail before this Court without any delay.

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

October 19, 2023
AK

Whether speaking/reasoned : Yes
Whether reportable : No